

SAA Representative to WIPO
Statement on Copyright Issues Involved in “Cross-Border” Uses
Standing Committee on Copyright and Related Rights

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As an archivist for nearly four decades, I'm used to the fact that archives are misunderstood. This stems from the general lack of knowledge of how we have to go about fulfilling our societal mission. So let me clarify three important points you need to know:

- 1) archives are the bridge between the past and the future;
- 2) archives exist to be used;
- 3) because archives by their very nature consist of unique documents, nearly all archives worldwide face the problem of cross-border requests for copies.

Let me give you an example. Just two weeks ago, my archives received an e-mail from a Polish historical museum interested in our collection of U.S. posters promoting Radio Free Europe in the 1950s and '60s. To connect with their own displays on Polish emigration in the Soviet Era, the museum sought images to reflect the anti-communist message enticing the East European population to emigrate. Their first question--do we have any such posters--was easily answered by a resounding yes, but their follow-up questions were not. Their e-mail request read: "If you have such posters, is there any way for us to research them? Can you send preview photos? How do we obtain copies and a license for our exposition?" Without international norms on the right to provide copies to users, we are unsure of the legal environment for us to provide the documents across borders to help the museum meet its mission and us ours.

Another example from just last year: We were similarly stymied by what should have been a simple request from a graduate student. Our archives also holds a substantial collection relating to 20th-century "classical" or "art" music. Last year a doctoral student from Cuba who was studying composition in Madrid contacted us, researching Latin-American composers writing new music for percussion ensembles between 1930 and 1960. It so happens that one of our faculty members had made several innovations in the area of percussion ensembles, so the researcher sent a long request asking for copies of some of this rare and unpublished music manuscripts. As material for a doctoral thesis, such copying should be more than appropriate. However, without a solid knowledge of Cuban law, Spanish law, and laws of several countries where our faculty member gathered some of the music, this rather standard request became a significant

challenge. As historical curators, we should not have to be doing such legal research and making such decisions.

Obviously, neither of these requests involved items made for commercial use, but copyright law assumes commerce. This puts archivists and copyright at loggerheads. Archivists must continue preserving culture and enabling accountability, but traditional copyright's disproportionate focus on revenue potential makes it increasingly impossible to fulfill our essential mission. Something must be done to enable our two worlds to work together. As archivists committed to best practices and respecting rights, the SAA hopes the good faith of SCCR will find the way to enable our two worlds to work together.